



DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM 2022-0025]

Notice of Intent to Prepare an Environmental Impact Statement for US Wind's Proposed Wind Energy Facility Offshore Maryland

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of intent (NOI) to prepare an environmental impact statement (EIS); request for comments.

SUMMARY: Consistent with the regulations implementing the National Environmental Policy Act (NEPA), BOEM announces its intent to prepare an EIS for the review of a construction and operations plan (COP) submitted by US Wind, Inc., (US Wind) for the construction and operation of a wind energy facility offshore Maryland with proposed interconnection locations in Sussex County, Delaware. This NOI announces the EIS scoping process for the US Wind COP. Additionally, this NOI seeks public comment and input under the National Historic Preservation Act (NHPA) and its implementing regulations. Detailed information about the proposed wind energy facility, including the COP, can be found on BOEM's website at: www.boem.gov/US-Wind.

DATES: Comments received by [PLEASE INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], will be considered.

BOEM will hold three virtual public scoping meetings for the US Wind EIS at the following dates and times (eastern time):

- Tuesday, June 21, 5:00 p.m.;
- Thursday, June 23, 5:00 p.m.;
- Monday, June 27, 1:00 p.m.

Registration for the virtual public meetings may be completed here: www.boem.gov/US-Wind-Scoping-Virtual-Meetings or by calling (703) 787-1346. The virtual meetings are open to the public and free to attend.

ADDRESSES: Written comments can be submitted in any of the following ways:

- Delivered by mail or delivery service, enclosed in an envelope labeled “US WIND COP EIS” and addressed to Program Manager, Office of Renewable Energy Programs, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166; or
- Through the regulations.gov web portal: Navigate to www.regulations.gov and search for Docket No. BOEM-2022-0025. Select the document in the search results on which you want to comment, click on the “Comment” button, and follow the online instructions for submitting your comment. A commenter’s checklist is available on the comment webpage. Enter your information and comment, then click “Submit.”

FOR FURTHER INFORMATION CONTACT: Brian Krevor, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, Virginia 20166, telephone (703) 787-1346, or email Brian.Krevor@boem.gov.

SUPPLEMENTARY INFORMATION:

Purpose of and Need for the Proposed Action

In Executive Order (EO) 14008, “Tackling the Climate Crisis at Home and Abroad,” issued January 27, 2021, President Biden stated that it is the policy of the United States:

[T]o organize and deploy the full capacity of its agencies to combat the climate crisis to implement a Government-wide approach that reduces climate pollution in every sector of the economy; increases resilience to the impacts of climate change; protects public health; conserves our lands, waters, and biodiversity; delivers environmental justice; and spurs well-paying union jobs and economic growth, especially through innovation, commercialization, and deployment of clean energy technologies and infrastructure.

Through a competitive leasing process under 30 Code of Federal Regulations (CFR) 585.211, BOEM awarded US Wind with Commercial Lease OCS-A 0490 covering an area offshore Maryland (Lease Area) in 2014. During the same competitive lease sale, BOEM also awarded US Wind with Commercial Lease OCS-A 0489. By a lease amendment, made effective March 1, 2018, US Wind's Commercial Leases OCS-A 0489 and OCS-A 0490 were merged into a single lease, Lease OCS-A 0490. Lease OCS-A 0489 automatically terminated. US Wind has the exclusive right to submit a COP for activities within the Lease Area. US Wind has submitted a COP to BOEM proposing the construction, installation, operation, and conceptual decommissioning of an offshore wind energy facility in the Lease Area (the Project).

US Wind's goal is to develop a commercial-scale, offshore wind energy project in the Lease Area. The Project comprises as many as 121 wind turbine generators (WTG), up to 4 offshore substations (OSS), up to 4 offshore export cables, and 1 meteorological tower (Met Tower), with a total of up to 126 structures in a gridded array pattern distributed across the Lease Area. The offshore export cables are planned to make landfall in Sussex County, Delaware. The Project will be interconnected to the onshore electric grid by up to four new 230 kV export cables to new US Wind onshore substations, with an anticipated connection to the existing Indian River Substation near Millsboro, Delaware.

The Project would generate up to 2,000 megawatts (MW) of wind energy to the Delmarva Peninsula, including Maryland, in fulfillment of State and Federal clean energy standards and targets (see section 1.1.2 of the COP). The Project includes MarWin, a wind farm of approximately 300 MW for which US Wind was awarded offshore wind renewable energy credits (ORECs) in 2017 by the State of Maryland; Momentum Wind, consisting of approximately 808 MW for which the State of Maryland awarded additional ORECs in 2021; and build out of the remainder of the Lease Area to fulfill ongoing, government-sponsored demands for offshore wind energy.

Based on BOEM's authority under the Outer Continental Shelf Lands Act (OCSLA) to authorize renewable energy activities on the Outer Continental Shelf (OCS), EO 14008, the shared goals of the Federal agencies to deploy 30 gigawatts (GW) of offshore wind energy capacity in the United States by 2030, while protecting biodiversity and promoting ocean co-use,¹ and in consideration of the goals of the applicant, the purpose of BOEM's action is to determine whether to approve, approve with modifications, or disapprove US Wind's COP. BOEM will make this determination after weighing the factors in subsection 8(p)(4) of OCSLA that are applicable to plan decisions and in consideration of the above goals. BOEM's action is needed to fulfill its duties under the lease, which requires BOEM to make a decision on the lessee's plan to construct and operate a commercial-scale, offshore wind energy facility in the Lease Area.

In addition, the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) anticipates one or more requests for authorization under the Marine Mammal Protection Act (MMPA) to take marine mammals incidental to construction activities related to the Project. NMFS's issuance of an MMPA incidental take authorization would be a major Federal action connected to BOEM's action (40 CFR 1501.9(e)(1)).² The purpose of the NMFS action—which is a direct outcome of US Wind's request for authorization to take marine mammals incidental to specified activities associated with the Project (e.g., pile driving)—is to evaluate US Wind's request pursuant to specific requirements of the MMPA and its implementing regulations administered by NMFS, consider impacts of the applicant's activities on relevant resources, and, if appropriate, issue the permit or authorization. NMFS needs to render a decision regarding the request for authorization due to NMFS' responsibilities under the MMPA (16 U.S.C. 1371(a)(5)(A) & (D)) and its implementing regulations. If NMFS makes the

¹ ¹ [1] [FACT SHEET: Biden Administration Jump starts Offshore Wind Energy Projects to Create Jobs | The White House](https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/29/fact-sheet-biden-administration-jumpstarts-offshore-wind-energy-projects-to-create-jobs/), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/29/fact-sheet-biden-administration-jumpstarts-offshore-wind-energy-projects-to-create-jobs/>

² Under the MMPA, a "take" means "to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal" (16 U.S.C. 1362).

findings necessary to issue the requested authorization, NMFS intends to adopt, after independent review, BOEM's EIS to support that decision and fulfill its NEPA requirements.

The U.S. Army Corps of Engineers (USACE) Baltimore District anticipates requests for authorization of a permit action to be undertaken through authority delegated to the district engineer by 33 CFR 325.8, under section 10 of the Rivers and Harbors Act of 1899 (RHA) (33 U.S.C. 403) and section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344). In addition, it is anticipated that a section 408 permission will be required pursuant to section 14 of the RHA (33 U.S.C. 408) for any proposed alterations that have the potential to alter, occupy, or use any federally authorized civil works projects. The USACE considers issuance of permits/permissions under these three delegated authorities a major Federal action connected to BOEM's action (40 CFR 1501.9(e)(1)). The need for the Project as provided by the applicant in section 1.1.2 of the COP and reviewed by USACE for NEPA purposes is to provide a commercially viable offshore wind energy project within the Lease Area to help the State of Maryland achieve its renewable energy goals. The basic Project purpose, as determined by USACE for section 404(b)(1) guidelines evaluation, is offshore wind energy generation. The overall Project purpose for section 404(b)(1) guidelines evaluation, as determined by USACE, is the construction and operation of a commercial-scale, offshore wind energy project for renewable energy generation in Lease Area OCS-A 0490 offshore Maryland and transmission/distribution to the PJM energy grid.³

The purpose of USACE section 408 action as determined by EC 1165-2-220⁴ is to evaluate the applicant's request and determine whether the proposed alterations are injurious to the public interest or impair the usefulness of the USACE project. USACE section 408 permission is needed to ensure that congressionally authorized projects continue to provide their

³ PJM is a regional transmission organization that coordinates the movement of wholesale electricity in all or parts of 13 States in the Mid-Atlantic and Midwest and the District of Columbia. For more information, see <https://www.pjm.com/>

⁴ USACE Engineer Circular titled "Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408."

intended benefits to the public. USACE intends to adopt BOEM's EIS to support its decision on any permits or permissions requested under sections 10 of the RHA, section 404 of the CWA, and section 408 of the RHA. The USACE would adopt the EIS per 40 CFR 1506.3 if, after its independent review of the document, it concludes that the EIS satisfies USACE's comments and recommendations. Based on its participation as a cooperating agency and its consideration of the final EIS, USACE would issue a record of decision (ROD) to formally document its decision on the proposed action.

Proposed Action and Preliminary Alternatives

As noted above, US Wind proposes to construct and operate the Project with 126 total foundation locations to be occupied by a combination of up to 121 WTGs, up to 4 OSSs, and 1 Met Tower. The Project would make landfall in Sussex County, Delaware. The Project would be interconnected to the onshore electric grid by up to 4 new 230 kV export cables to new US Wind onshore substations, with an anticipated connection to the existing Indian River Substation near Millsboro, Delaware.

The WTG foundations would be monopiles, while the OSS foundations may be monopiles, piled jackets, or suction-bucket foundations. The WTGs, OSSs, foundations, and inter-array cables would be located within the Lease Area on the U.S. OCS approximately 11.5 statute miles (mi) (18.5 kilometers [km]) off the coast of Maryland. The offshore export cables would be buried in the U.S. OCS and in the seabed under State waters of Maryland and Delaware.

US Wind's Project is the action BOEM will analyze in its EIS (Proposed Action). If any reasonable alternatives to the Proposed Action are identified during the scoping period, BOEM will evaluate those alternatives in the draft EIS, which will also include a no action alternative. Under the no action alternative, BOEM would disapprove the COP, and the proposed wind energy facility would not be built.

Once BOEM completes the EIS and associated consultations, BOEM will decide whether to approve, approve with modification, or disapprove the US Wind COP. If BOEM approves the COP, US Wind must comply with all conditions of its approval.

Summary of Potential Impacts

The draft EIS will identify, describe, and analyze the potential effects of the Proposed Action and the alternatives on the human environment that are reasonably foreseeable and have a reasonably close causal relationship to the Proposed Action and the identified alternatives. This includes effects that occur at the same time and place as the Proposed Action and alternatives and effects caused by the Project that are later in time or occur in a different place. Potential impacts to resources include, but are not limited to, impacts (whether beneficial or adverse) on air quality, water quality, bats, benthic habitat, essential fish habitat, invertebrates, finfish, birds, marine mammals, terrestrial and coastal habitats and fauna, sea turtles, wetlands and other waters of the United States, commercial fisheries and for-hire recreational fishing, cultural resources, demographics, employment, economics, environmental justice, land use and coastal infrastructure, navigation and vessel traffic, other marine uses, recreation and tourism, and visual resources.

Based on a preliminary evaluation of these resources, BOEM expects potential impacts on sea turtles and marine mammals from underwater noise caused by construction and from collision risks with Project-related vessel traffic. Structures installed by the Project could permanently change benthic and fish habitats (e.g., creation of artificial reefs). Commercial fisheries and for-hire recreational fishing could be impacted. Project structures above the water could affect the visual character defining historic properties and recreational and tourism areas. Project structures also would pose an allision and height hazard to vessels passing close by, and vessels would, in turn, pose a hazard to the structures. Additionally, the Project could cause conflicts with military activities, air traffic, land-based radar services, cables and pipelines, and scientific surveys.

Beneficial impacts are also expected by facilitating achievement of State renewable energy goals, increasing job opportunities, improving air quality, and reducing carbon emissions. Specifically, regarding job opportunities, the Project is estimated to support up to an estimated 18,717 job-years, or about 2,679 jobs annually over 7 years, during the development and construction phases of the Project. During the operations and maintenance phase, the Project will support up to an estimated 803 jobs annually during its 25 years of operations and maintenance activities.

The EIS will analyze measures that would avoid, minimize, or mitigate identified adverse impacts.

Anticipated Permits and Authorizations

In addition to the requested COP approval, various other Federal, State, and local authorizations will be required for the Project. Applicable Federal laws include the Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, MMPA, RHA, CWA, and the Coastal Zone Management Act. BOEM will also conduct government-to-government Tribal consultations. For a detailed listing of regulatory requirements applicable to the Project, please see the COP, volume I, available at www.boem.gov/US-Wind.

BOEM has chosen to use the NEPA process to fulfill its obligations under NHPA. While BOEM's obligations under NHPA and NEPA are independent, regulations implementing section 106 of NHPA, at 36 CFR 800.8(c), allow the NEPA process and documentation to substitute for various aspects of the NHPA review. This process is intended to improve efficiency, promote transparency and accountability, and support a broadened discussion of potential effects that a project could have on the human environment. During preparation of the EIS, BOEM will ensure that the NEPA process will fully meet all NHPA obligations.

Schedule for the Decision-Making Process

After the draft EIS is completed, BOEM will publish a notice of availability (NOA) and request public comments on the draft EIS. BOEM currently expects to issue the NOA in August

2023. After the public comment period ends, BOEM will review and respond to comments received and will develop the final EIS. BOEM currently expects to make the final EIS available to the public in April 2024. A ROD will be completed no sooner than 30 days after the final EIS is released, in accordance with 40 CFR 1506.11.

This Project is a “covered project” under title 41 of the Fixing America’s Surface Transportation Act (FAST-41). FAST-41 provides increased transparency and predictability by requiring Federal agencies to publish comprehensive permitting timetables for all covered projects. FAST-41 also provides procedures for modifying permitting timetables to address the unpredictability inherent in the environmental review and permitting process for significant infrastructure projects. To view the FAST-41 Permitting Dashboard for the Project, visit: <https://www.permits.performance.gov/permitting-project/maryland-offshore-wind-project>.

Scoping Process

This NOI commences the public scoping process to identify issues and potential alternatives for consideration in the draft EIS. BOEM will hold public scoping meetings at the times and dates described above under the “Dates” caption. Throughout the scoping process, Federal agencies, Tribal, State, and local governments, and the general public have the opportunity to help BOEM identify significant resources and issues, impact-producing factors, reasonable alternatives (e.g., size, geographic, seasonal, or other restrictions on construction and siting of facilities and activities), and potential mitigation measures to be analyzed in the EIS, as well as to provide additional information.

As noted above, BOEM will use the NEPA process to comply with NHPA. BOEM will consider all written requests from individuals and organizations to participate as consulting parties under NHPA and, as discussed below, will determine who among those parties will be a consulting party in accordance with the NHPA regulations.

NEPA Cooperating Agencies

BOEM invites other Federal agencies and Tribal, State, and local governments to consider becoming cooperating agencies in the preparation of this EIS. The Council on Environmental Quality (CEQ) NEPA regulations specify that qualified agencies and governments are those with “jurisdiction by law or special expertise.” Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and should be aware that an agency’s role in the environmental analysis neither enlarges nor diminishes the final decision-making authority of any other agency involved in the NEPA process.

Upon request, BOEM will provide potential cooperating agencies with a written summary of expectations for cooperating agencies, including schedules, milestones, responsibilities, scope and detail of cooperating agencies’ expected contributions, and availability of pre-decisional information. BOEM anticipates this summary will form the basis for a memorandum of agreement between BOEM and any non-Department of the Interior cooperating agency. Agencies also should consider the factors for determining cooperating agency status in the CEQ memorandum entitled “Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act,” dated January 30, 2002. This document is available on the Internet at:
www.energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-CEQ-CoopAgenciesImplem.pdf.

BOEM, as the lead agency, does not provide financial assistance to cooperating agencies. Governmental entities that are not cooperating agencies will have opportunities to provide information and comments to BOEM during the public input stages of the NEPA process.

NHPA Consulting Parties

Individuals and organizations with a demonstrated interest in the Project can request to participate as NHPA consulting parties under 36 CFR 800.2(c)(5) based on their legal or economic stake in historic properties affected by the Project.

Before issuing this NOI, BOEM compiled a list of potential consulting parties and invited them to become consulting parties. To become a consulting party, those invited must respond in writing by the requested response date.

Interested individuals and organizations that did not receive a written invitation can request to be consulting parties by writing to the staff NHPA contact at CSA Ocean Sciences, Inc., the third-party EIS contractor supporting BOEM in its administration of this review. CSA's NHPA contact for this review is Danna Allen at US-Wind-Project-Section106@erm.com. BOEM will determine which interested parties may be selected as consulting parties.

Comments

Federal agencies, Tribal, State, and local governments, and other interested parties are requested to comment on the scope of this EIS, significant issues that should be addressed, and alternatives that should be considered. For information on how to submit comments, see the "Addresses" section above.

BOEM does not consider anonymous comments. Please include your name and address as part of your comment. BOEM makes all comments, including the names, addresses, and other personally identifiable information included in the comment, available for public review online. Individuals can request that BOEM withhold their names, addresses, or other personally identifiable information included in their comment from the public record; however, BOEM cannot guarantee that it will be able to do so. To help BOEM determine whether to withhold from disclosure your personally identifiable information, you must identify any information contained in your comments that, if released, would constitute a clearly unwarranted invasion of your privacy. You also must briefly describe any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm.

Additionally, under section 304 of NHPA, BOEM is required, after consultation with the Secretary of the Interior, to withhold the location, character, or ownership of historic resources if it determines that disclosure may, among other things, cause a significant invasion of privacy, risk harm to the historic resources, or impede the use of a traditional religious site by practitioners. Tribal entities and other parties providing information on historic resources should designate information that they wish to be held as confidential and provide the reasons why BOEM should do so.

All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action

BOEM requests data, comments, views, information, analysis, alternatives, or suggestions relevant to the Proposed Action from the public; affected Federal, Tribal, State, and local governments, agencies, and offices; the scientific community; industry; or any other interested party. Specifically, BOEM requests information on the following topics:

1. Potential effects that the Proposed Action could have on biological resources, including bats, birds, coastal fauna, finfish, invertebrates, essential fish habitat, marine mammals, and sea turtles.
2. Potential effects that the Proposed Action could have on physical resources and conditions including air quality, water quality, wetlands, and other waters of the United States.
3. Potential effects that the Proposed Action could have on socioeconomic and cultural resources, including commercial fisheries and for-hire recreational fishing, demographics, employment, economics, environmental justice, land use and coastal

infrastructure, navigation and vessel traffic, other uses (e.g., marine minerals, military use, aviation), recreation and tourism, and scenic and visual resources.

4. Other possible reasonable alternatives to the Proposed Action that BOEM should consider, including additional or alternative avoidance, minimization, and mitigation measures.
5. As part of its compliance with NHPA section 106 and its implementing regulations (36 CFR part 800), BOEM seeks comment and input from the public and consulting parties regarding the identification of historic properties within the Proposed Action's area of potential effects, the potential effects on those historic properties from the activities proposed in the COP, and any information that supports identification of historic properties under NHPA. BOEM also solicits proposed measures to avoid, minimize, or mitigate any adverse effects on historic properties. BOEM will present available information regarding known historic properties during the public scoping period at www.boem.gov/US-Wind. BOEM's effects analysis for historic properties will be available for public and consulting party comment in the draft EIS.
6. Information on other current or planned activities in, or in the vicinity of, the Proposed Action, their possible impacts on the Project, and the Project's possible impacts on those activities.
7. Other information relevant to the Proposed Action and its impacts on the human environment.

To promote informed decision-making, comments should be as specific as possible and should provide as much detail as necessary to meaningfully and fully inform BOEM of the commenter's position. Comments should explain why the issues raised are important to the consideration of potential environmental impacts and possible alternatives to the Proposed Action as well as to economic, employment, and other impacts affecting the quality of the human environment.

The draft EIS will include a summary of all alternatives, information, and analyses submitted during the scoping process for consideration by BOEM and the cooperating agencies.

AUTHORITY: 42 U.S.C. 4321 *et seq.*, and 40 CFR 1501.9.

William Yancey Brown,
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Bureau of Ocean Energy Management.

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